
HOUSE BILL 2415

State of Washington

60th Legislature

2007 Regular Session

By Representatives DeBolt, Ericksen, Kristiansen, Pearson, Schindler, Skinner, Buri, Newhouse, Anderson, Alexander, Orcutt, Rodne, Haler, Ross, Sump, Hailey, Strow, Priest, McCune, Kretz, Jarrett, Crouse, Ahern, Hinkle and Warnick

Read first time 04/22/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to improving the resources and tools community
2 corrections officers and law enforcement need to perform their duties
3 protecting the public; amending RCW 9.94A.631, 9.94A.720, and
4 9.94A.737; adding a new section to chapter 9.94A RCW; adding new
5 sections to chapter 72.09 RCW; adding a new section to chapter 72.04A
6 RCW; and creating a new section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that public safety is
9 one of the paramount duties of the state and an essential function of
10 government. The legislature further finds that systemic problems exist
11 with the department of corrections that must be addressed expeditiously
12 and unequivocally in order to rebuild public confidence in the state's
13 ability to best protect them from criminal offenders who have been
14 released from full incarceration but are still serving their sentences
15 on community custody. Turnstile justice is not conducive to building
16 public safety, public confidence in and support for our criminal
17 justice system as a whole, and the morale of personnel working within
18 our department of corrections, law enforcement agencies, and
19 prosecutors' offices. Citizens expect and demand predictability,

1 proportionality, uniformity, transparency, and justice when dealing
2 with criminal offenders and due consideration for the severe and
3 detrimental impact of crime on victims and their families and friends
4 when dealing with such offenders. The legislature also recognizes the
5 need to ensure the safety of the public while offenders are released
6 into communities. To further the goal of ensuring public safety, the
7 legislature intends to improve the monitoring of offenders on
8 supervision and hold those who violate the conditions of supervision
9 accountable for their actions. The legislature intends to increase the
10 effectiveness of supervision of offenders on community custody through
11 methods such as providing community corrections officers increased
12 flexibility in determining sanctions for supervision violations and in
13 searches of offenders on community custody with the goal of enhancing
14 public safety and preventing future offenses and supervision
15 violations.

16 **Sec. 2.** RCW 9.94A.631 and 1984 c 209 s 11 are each amended to read
17 as follows:

18 If an offender violates any condition or requirement of a sentence,
19 a community corrections officer may arrest or cause the arrest of the
20 offender without a warrant, pending a determination by the court. If
21 there is reasonable cause to believe that an offender has violated a
22 condition or requirement of the sentence, an offender may be required
23 to submit to a search and seizure of the offender's person, residence,
24 automobile, or other personal property. An offender may be required to
25 submit to a search without reasonable cause to believe that he or she
26 has violated a condition or requirement of the sentence if the search
27 is a condition of his or her community custody under section 3 of this
28 act. A community corrections officer may also arrest an offender for
29 any crime committed in his or her presence. The facts and
30 circumstances of the conduct of the offender shall be reported by the
31 community corrections officer, with recommendations, to the court.

32 If a community corrections officer arrests or causes the arrest of
33 an offender under this section, the offender shall be confined and
34 detained in the county jail of the county in which the offender was
35 taken into custody, and the sheriff of that county shall receive and
36 keep in the county jail, where room is available, all prisoners
37 delivered to the jail by the community corrections officer, and such

1 offenders shall not be released from custody on bail or personal
2 recognizance, except upon approval of the court, pursuant to a written
3 order.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW
5 to read as follows:

6 (1) The legislature finds that:

7 (a) Offenders in total confinement may be subjected to random,
8 unannounced inspections without violating the constitutional
9 requirement that all searches be reasonable;

10 (b) Offenders on community custody, including escapees and
11 absconders, have the same expectation of privacy as offenders in total
12 confinement; and

13 (c) Requiring an offender on community custody, including escapees
14 and absconders, to submit to random, unannounced inspections is
15 therefore reasonable under the federal and state Constitutions.

16 (2) When a court sentences an offender to a term of community
17 custody under RCW 9.94A.505(2)(b), 9.94A.545, 9.94A.650, or 9.94A.715,
18 for a crime committed on or after the effective date of this act, the
19 court shall require the offender, as a condition of community custody,
20 to submit to random, unannounced inspections of his or her person,
21 residence, automobile, or other personal property.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.09 RCW
23 to read as follows:

24 The department shall allow community corrections officers to
25 inspect the person, residence, automobile, or other personal property
26 of an offender, including escapees and absconders, under its
27 supervision in the community whenever the community corrections
28 officer, based on the officer's professional judgment and discretion,
29 has reasonable cause to believe that the offender has violated a
30 condition or requirement of his or her sentence.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 72.09 RCW
32 to read as follows:

33 (1) The department shall allow community corrections officers,
34 based on the officer's professional judgment and discretion, to perform
35 random, unannounced inspections of the person, residence, automobile,

1 or other personal property of every offender, including escapees and
2 absconders, under the department's supervision pursuant to a term of
3 community custody imposed for a crime committed on or after the
4 effective date of this act.

5 (2) The community corrections officer shall document his or her
6 rationale for conducting an inspection under this section.

7 **Sec. 6.** RCW 9.94A.720 and 2003 c 379 s 7 are each amended to read
8 as follows:

9 (1)(a) Except as provided in RCW 9.94A.501, all offenders sentenced
10 to terms involving community supervision, community restitution,
11 community placement, or community custody shall be under the
12 supervision of the department and shall follow explicitly the
13 instructions and conditions of the department. The department may
14 require an offender to perform affirmative acts it deems appropriate to
15 monitor compliance with the conditions of the sentence imposed. The
16 department may only supervise the offender's compliance with payment of
17 legal financial obligations during any period in which the department
18 is authorized to supervise the offender in the community under RCW
19 9.94A.501.

20 (b) The instructions shall include, at a minimum, reporting as
21 directed to a community corrections officer, remaining within
22 prescribed geographical boundaries, notifying the community corrections
23 officer of any change in the offender's address or employment, and
24 paying the supervision fee assessment.

25 (c) For offenders sentenced to terms involving community custody
26 for crimes committed on or after June 6, 1996, the department may
27 include, in addition to the instructions in (b) of this subsection, any
28 appropriate conditions of supervision, including but not limited to,
29 prohibiting the offender from having contact with any other specified
30 individuals or specific class of individuals.

31 (d) For offenders sentenced to terms of community custody for
32 crimes committed on or after July 1, 2000, the department may impose
33 conditions as specified in RCW 9.94A.715.

34 The conditions authorized under (c) of this subsection may be
35 imposed by the department prior to or during an offender's community
36 custody term. If a violation of conditions imposed by the court or the
37 department pursuant to RCW 9.94A.710 occurs during community custody,

1 it shall be deemed a violation of community placement for the purposes
2 of RCW 9.94A.740 and shall authorize the department to transfer an
3 offender to a more restrictive confinement status as provided in RCW
4 9.94A.737. At any time prior to the completion of an offender's term
5 of community custody, the department may recommend to the court that
6 any or all of the conditions imposed by the court or the department
7 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
8 expiration of the offender's term of community custody as authorized in
9 RCW 9.94A.715 (3) or (5).

10 The department may require offenders to pay for special services
11 rendered on or after July 25, 1993, including electronic monitoring,
12 day reporting, and telephone reporting, dependent upon the offender's
13 ability to pay. The department may pay for these services for
14 offenders who are not able to pay.

15 (2) No offender sentenced to terms involving community supervision,
16 community restitution, community custody, or community placement under
17 the supervision of the department may own, use, or possess firearms or
18 ammunition. Offenders who own, use, or are found to be in actual or
19 constructive possession of firearms or ammunition shall be subject to
20 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
21 9.94A.740. "Constructive possession" as used in this subsection means
22 the power and intent to control the firearm or ammunition. "Firearm"
23 as used in this subsection has the same definition as in RCW 9.41.010.

24 (3) A community corrections officer is not liable for civil damages
25 arising from an act or omission that occurs when the community
26 corrections officer provides assistance to a law enforcement officer so
27 long as the community corrections officer was acting at the request of
28 the law enforcement officer, unless the act or omission constitutes
29 gross negligence.

30 (4) A community corrections officer is not liable for civil damages
31 arising from an act or omission that occurs when the community
32 corrections officer interacts with a third party who is attempting to
33 intervene in a situation in which the community corrections officer is
34 contacting an offender on community custody or community supervision,
35 unless the act or omission constitutes gross negligence.

36 **Sec. 7.** RCW 9.94A.737 and 2005 c 435 s 3 are each amended to read
37 as follows:

1 (1) If an offender violates any condition or requirement of
2 community custody, the department may transfer the offender to a more
3 restrictive confinement status to serve up to the remaining portion of
4 the sentence, less credit for any period actually spent in community
5 custody or in detention awaiting disposition of an alleged violation
6 and subject to the limitations of subsection (2) of this section.

7 (2)(a) For a sex offender sentenced to a term of community custody
8 under RCW 9.94A.670 who violates any condition of community custody,
9 the department may impose a sanction of up to sixty days' confinement
10 in a local correctional facility for each violation. If the department
11 imposes a sanction, the department shall submit within seventy-two
12 hours a report to the court and the prosecuting attorney outlining the
13 violation or violations and the sanctions imposed.

14 (b) For a sex offender sentenced to a term of community custody
15 under RCW 9.94A.710 who violates any condition of community custody
16 after having completed his or her maximum term of total confinement,
17 including time served on community custody in lieu of earned release,
18 the department may impose a sanction of up to sixty days in a local
19 correctional facility for each violation.

20 (c) For an offender sentenced to a term of community custody under
21 RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545,
22 for a crime committed on or after July 1, 2000, who violates any
23 condition of community custody after having completed his or her
24 maximum term of total confinement, including time served on community
25 custody in lieu of earned release, the department may impose a sanction
26 of up to sixty days in total confinement for each violation. The
27 department may impose sanctions such as work release, home detention
28 with electronic monitoring, work crew, community restitution, inpatient
29 treatment, daily reporting, curfew, educational or counseling sessions,
30 supervision enhanced through electronic monitoring, or any other
31 sanctions available in the community.

32 (d) For an offender sentenced to a term of community placement
33 under RCW 9.94A.705 who violates any condition of community placement
34 after having completed his or her maximum term of total confinement,
35 including time served on community custody in lieu of earned release,
36 the department may impose a sanction of up to sixty days in total
37 confinement for each violation. The department may impose sanctions
38 such as work release, home detention with electronic monitoring, work

1 crew, community restitution, inpatient treatment, daily reporting,
2 curfew, educational or counseling sessions, supervision enhanced
3 through electronic monitoring, or any other sanctions available in the
4 community.

5 (3) If an offender is accused of violating any condition or
6 requirement of community custody, he or she is entitled to a hearing
7 before the department prior to the imposition of sanctions. The
8 hearing shall be considered as offender disciplinary proceedings and
9 shall not be subject to chapter 34.05 RCW. The department shall
10 develop hearing procedures and a structure of graduated sanctions.

11 (4) The hearing procedures required under subsection (3) of this
12 section shall be developed by rule and include the following:

13 (a) Hearing officers shall report through a chain of command
14 separate from that of community corrections officers;

15 (b) The department shall provide the offender with written notice
16 of the violation, the evidence relied upon, and the reasons the
17 particular sanction was imposed. The notice shall include a statement
18 of the rights specified in this subsection, and the offender's right to
19 file a personal restraint petition under court rules after the final
20 decision of the department;

21 (c) The hearing shall be held unless waived by the offender, and
22 shall be electronically recorded. For offenders not in total
23 confinement, the hearing shall be held within fifteen working days, but
24 not less than twenty-four hours, after notice of the violation. For
25 offenders in total confinement, the hearing shall be held within five
26 working days, but not less than twenty-four hours, after notice of the
27 violation;

28 (d) The offender shall have the right to: (i) Be present at the
29 hearing; (ii) have the assistance of a person qualified to assist the
30 offender in the hearing, appointed by the hearing officer if the
31 offender has a language or communications barrier; (iii) testify or
32 remain silent; (iv) call witnesses and present documentary evidence;
33 and (v) question witnesses who appear and testify; and

34 (e) The sanction shall take effect if affirmed by the hearing
35 officer. Within seven days after the hearing officer's decision, the
36 offender may appeal the decision to a panel of three reviewing officers
37 designated by the secretary or by the secretary's designee. The
38 sanction shall be reversed or modified if a majority of the panel finds

1 that the sanction was not reasonably related to any of the following:
2 (i) The crime of conviction; (ii) the violation committed; (iii) the
3 offender's risk of reoffending; or (iv) the safety of the community.

4 (5) For purposes of this section, no finding of a violation of
5 conditions may be based on unconfirmed or unconfirmable allegations.

6 (6) The department shall work with the Washington association of
7 sheriffs and police chiefs to establish and operate an electronic
8 monitoring program for low-risk offenders who violate the terms of
9 their community custody. Between January 1, 2006, and December 31,
10 2006, the department shall endeavor to place at least one hundred low-
11 risk community custody violators on the electronic monitoring program
12 per day if there are at least that many low-risk offenders who qualify
13 for the electronic monitoring program.

14 (7) Local governments, their subdivisions and employees, the
15 department and its employees, and the Washington association of
16 sheriffs and police chiefs and its employees shall be immune from civil
17 liability for damages arising from incidents involving low-risk
18 offenders who are placed on electronic monitoring unless it is shown
19 that an employee acted with gross negligence or bad faith.

20 (8) When determining the sanction to be imposed on an offender who
21 violates any condition of community custody, a hearing officer shall
22 give due consideration to the community corrections officer's
23 recommendation and shall have the option, based on the hearing
24 officer's professional determination and discretion, to impose the
25 maximum sanction or sanctions allowed under law or the maximum response
26 option adopted by the department regardless of the response option
27 range or violation response score.

28 NEW SECTION. Sec. 8. A new section is added to chapter 72.04A RCW
29 to read as follows:

30 The department shall develop a plan, using the existing staffing
31 matrix, to reduce the supervision caseload of community corrections
32 officers by December 1, 2009, and increase partnerships such as the
33 neighborhood corrections initiative. Prior to 2009, the department
34 shall hire additional community corrections officers to the extent
35 funding is provided in the operating budget.

--- END ---